IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2984 OF 2004
IN
CRIMINAL APPEAL NO. OF 2004

Municipal Corporation of
Greater Mumbai. .....Applicant.

V/s

Indira Sakarani & Ors. .....Respondents.

Mrs. Trupti Puranik for the applicant.

Mr. A. Narula for respondent No.1.

Mr. D.P. Adsule, APP for the State.

CORAM: V.M.KANADE,J.
DATE: 20th January, 2005

P.C.

1. Heard the learned Counsel appearing on behalf of the Corporation and the learned Counsel for respondent No.1 and APP for the State.

2. The Corporation has filed this appeal challenging the Judgment and Order passed by the Metropolitan Magistrate, 41st Court, Shindewadi, Dadar, Mumbai.

3. By the said judgment and order dated 12/04/2004, the Metropolitan Magistrate was pleased to acquit the respondents of the offence punishable under section 381 read with section 471 of the M.M.C. Act.

4. The allegation of the complainant in the complaint filed was that there was non-compliance of the notice which was issued under section 381 of the said Act. Mr. Sahani in his evidence has stated that there was a leakage in his flat and the accused was responsible for the said leakage. The members of the Managing Committee have admitted that there was a leakage in number of flats and that the Society was responsible for not keeping the flats in a proper condition and that it was their responsibility to repair the flats. The Trial Court held that the members of the Managing Committee were guilty and convicted them and imposed a fine. The Trial Court, however, held that so far as respondent No.1 herein is concerned, she was not responsible for the leakage. The Trial Court relied upon the report submitted by one of the Architects who had given his opinion that the leakage was on the 5th floor bathroom of the building which had percolated down to the flat of Shri Sahani.

5. In my view, the view taken by the Trial Court is a reasonable and plausible view. I do not see any reason to interfere with the said finding recorded by the Trial Court. Leave is, therefore, refused.

Appeal is dismissed.

V.M. KANADE, J.